# Brookline Board of Appeals March 5, 2015, 7:00 PM Public Hearing

## 333 Washington Street Selectmen's Hearing Room, 6th Floor

Board Members Present: Jesse Geller (Chairman), Christopher Hussey, Jonathan Book

Staff Present: Michael Yanovitch (Building Department), Laura Curtis Hayes, Kara Brewton & Jay Rosa (Planning Department)

### 24 Elba Street

**Proposal**: Legalize an existing deck requiring side-yard setback relief

**Zoning District**: S-7 (Single-Family)

Precinct: 8

**Board Decision**: Relief request **granted**, subject to conditions

### 1,2,4 Brookline Place

**Proposal**: Construct an eight-story mixed-use building at 2-4 Brookline Place, and a new six-and-a-

half story parking garage to replace the existing four-story garage at 1 Brookline Place

**Zoning District**: GMR-2.0 (General Business and Medical Research)

Precinct: 4

**Board Decision**: Relief request **granted**, subject to conditions

Minutes shall be posted on the Town of Brookline website (<a href="http://www.brooklinema.gov/564/Zoning-Board-of-Appeals">http://www.brooklinema.gov/564/Zoning-Board-of-Appeals</a>) upon approval. Draft minutes shall be made available upon request.

Decisions shall be posted on the Town of Brookline website (<u>www.brooklinema.gov</u>). Appeals, if any, shall be filed with land court or superior court within twenty days after the date of filing of such notice in the office of the town clerk.

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Staff Present: Michael Yanovitch (Building Department), Laura Curtis Hayes, Kara Brewton & Jay Rosa (Planning Department)

#### 7:00 PM

**24 Elba Street** – Legalize existing deck requiring side-yard setback relief

Board Chairman Jesse Geller opened the hearing and called case #2014-0078.

Mr. Geller reviewed standard hearing procedure.

Property owner Mark Irvings (applicant) waived the reading of hearing notice for the record and presented case details to the board.

Mr. Irvings and his wife, Susan Irvings, have lived at 24 Elba Street since 1977. During that period, four different property owners have lived at the abutting property at 50 Crowninshield Road. All property owners were under the impression that the separating lot line between these properties was parallel to the 24 Elba Street garage, located at the southeast portion of the lot.

Mr. Irvings applied for, and was granted, a building permit to extend his side deck that has existed for approximately 30 years. This deck extension did not decrease the distance between the deck and side lot line. The submission of an as-built site plan following construction was a condition of this building permit. The certified site plan revealed that the existing uncovered deck is located 5.2 feet from the property line. This distance does not comply with side-yard setback requirements (6 feet) and requires retroactive special permit relief.

Mr. Irvings stated that the deck is 9 inches short of compliance, the abutting property owner at 50 Crowninshield Road supports this retroactive relief, and a row of hedges between the properties serves to maintain privacy. Additionally, Mr. Irvings determined with the Building Department that this retroactive special permit relief is more appropriate than moving the deck or seeking adverse possession.

Board Member, Jonathan Book asked the applicant to describe any counterbalancing amenities that will be provided in seeking this special permit relief. Mr. Irvings stated that there is minimal space to install new landscaping, but he will work with the abutting property owner to provide appropriate landscaped screening as a counterbalancing amenity.

Mr. Geller called for public comment in favor of, or in opposition to this retroactive special permit relief. No members of the public wished to comment.

Mr. Geller requested that Jay Rosa (Zoning Coordinator) deliver the opinion of the Planning Board and Building Department. Mr. Rosa stated that the Planning Board unanimously supported this request to legalize the existing deck. The deck design is appropriate for this location and neighbors are largely supportive. Additionally, the applicant self-reported this non-compliance and has worked responsibly with both the Building and Planning Departments.

Therefore, the Planning Board recommended approval of the site plan submitted by Everett M. Brooks Co., dated 10/27/2014, subject to the following conditions:

- 1. The applicant shall submit final site and landscaping plans, subject to the review and approval of the Assistant director for Regulatory Planning.
- 2. The applicant shall submit to the Building Commissioner to ensure compliance to the Board of Appeals Decision: 1) a final site plan stamped and signed by a registered engineer or land surveyor; 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Board Member Christopher Hussey requested that subsection 1 of Condition #2 be removed because the applicant already submitted a certified site plan following completed construction of the deck. Mr. Geller requested that Condition #1 be modified to include evidence of counterbalancing amenities.

Mr. Book concurred with this opinion and stated that the requirements for special permit relief under Bylaw Section 9.05 and 5.43 had been met.

### Unanimous grant of requested relief, subject to the following revised conditions:

- 1. The applicant shall submit final site and landscaping plans, indicating all counterbalancing amenities, subject to the review and approval of the Assistant director for Regulatory Planning.
- 2. The applicant shall submit to the Building Commissioner to ensure compliance to the Board of Appeals Decision: 1) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

#### 7:15 PM

### 1, 2 & 4 Brookline Place

Construct an eight-story mixed-use building at 2-4 Brookline Place, and a new six-and-one-half story parking garage to replace the existing four-story garage at 1 Brookline Place.

Board Chairman Jesse Geller called case #2014-0087 and reviewed hearing procedure. Mr. Geller stated that additional Town Department input will be provided prior to public comment.

Charles Weinstein (Boston Children's Hospital – Vice President, Real Estate Planning and Development) waived the reading of public notice for the record. Mr. Weinstein explained that BCH has reconsidered previous project plans for the site in order to generate a clean/fresh look. Mr. Weinstein provided an overview of the proposal presentation, and introduced attorneys Marilyn L. Sticklor and Timothy Sullivan (Goulston & Storrs – 400 Atlantic Avenue, Boston, MA), Project Architect Timothy Talun (Elkus Manfredi Architects – 25 Drydock Avenue, Boston, MA), Traffic

Engineer Robbie Burgess (Howard/Stein-Hudson – 11 Beacon Street – Boston, MA), Landscape Architect Mikyoung Kim (Mikyoung Kim Design – 119 Braintree Street, Boston, MA), and Project Manager George Cole (Stantec Consulting 311 Summer Street, Boston, MA). Mr. Weinstein concluded comments by stating that prior iterations of this project were granted necessary special permit relief but never reached construction due to financial constraints around 2008. This proposal has been scaled back in overall size and reoriented to create more active ground floor and open space activity.

Ms. Sticklor stated that the entire site (1-4 Brookline Place) is located within the GMR-2.0 General Business and Medical Office district that was adopted at Town Meeting in the spring of 2014. Proposed development at 2 Brookline Place will result in a gross square footage of 182,500 square feet for new retail, medical office, and general office use. For the purposes of permitting and zoning analysis, the 2 Brookline Place building has been evaluated as entirely medical office and ground floor retail use to provide the most conservative regulations for the applicant.

The existing medical office Building at 1 Brookline Place will be expanded by 47,000 square feet and the existing parking garage will be demolished and replaced by a 683-space parking garage that will service the entire Brookline Place complex. The applicant is requesting 132 additional parking spaces through managed parking (e.g. valet).

Ms. Sticklor stated that the proposal complies with a variety of dimensional requirements, including: maximum height (up to 125 ft), maximum FAR (3.45 and includes parking garage), open space (35% of gross floor area, of which 55% can be hardscape).

The proposal requires special permit relief for the Pearl Street garage entrance because it is within 20ft of the lot line (§5.01, §5.43), major impact project (§5.06.4.d.1), design review (§5.06, §5.09), Parking garage height for rooftop structures (§5.06.4.d.1.c.3), managed parking (§5.06.4.d.2.f, §6.04.3), Loading Bays (§ 6.06.7), and signage height/location (§7.00.1.b, §7.02.1.e).

George Cole reviewed the history of the Brookline Place site dating back to the 1980's. Mr. Cole also stated that soil contamination generated the need for the above ground parking garage.

Tim Talun described project elements in further detail. The overall massing of the project has been separated into two primary structures in order to generate more active use of ground level areas. Open space is more accessible by the public, and oriented toward the Brookline Village T stop. Clear views are also provided through the site from Brookline Avenue and Washington Street to Pearl Street.

More solid building materials will face outward and glossy materials will face the inner courtyard. Three signs along the penthouse will be used to announce the building name, and will face the north, east, and west.

Board Member, Christopher Hussey requested additional information regarding signage material. Mr. Talun stated that the applicant is required to go before the Planning Board for sign and façade review, therefore current sign design is not finalized. Signs will be most likely back-lit and located around the perimeter and glazing. Lower level retail signage is also anticipated.

Mikyoung Kim described landscaping and pedestrian features intended to improve connections between the site, the Brookline Village T station, and Route 9. The concept of an outdoor room

facing Pearl Street will be enhanced by outdoor seating, creative paving materials, gardens, stormwater management ponds, graded landforms, and seasonal change in colors/character.

Board Chairman Jesse Geller asked for specific measurements of the pedestrian walkway "pinch point". Ms. Kim confirmed that the narrowest width of the pedestrian way is 45 feet, as mandated by GMR-2.0 district requirements, and then opens up to 65 feet in width as pedestrians move toward Pearl Street. Ms. Kim also reiterated that a clear sight line is maintained from Route 9 to Pearl Street.

Robbie Burgess described various traffic and parking related analyses that were completed in collaboration with Town peer review consultants (Nelson Nygard – Parking) (Jaklyn Centracchio – Traffic). Mr. Burgess presented anticipated mode splits for patient and employee travel to the site. These anticipated numbers were informed by existing BCH facilities within the Longwood Medical Area and Transportation Demand Management (TDM) strategies. Net new trip generation, as well as specific site entry points for this new vehicular traffic was also included in Mr. Burgess' discussion. Anticipated vehicular trip increases were included in models to estimate wait times and traffic based on existing and proposed area traffic signal patterns. Intersections at Pearl Street and Route 9, and Washington Street and Boylston Street are projected to experience the most intensive traffic impact as a result of proposed development. Mr. Burgess stated that medical office use tends to disperse trips throughout the day but does still maintain am and pm peaks.

Proposed traffic mitigation measures include a pedestrian crossing at Brookline Avenue and hardwire coordination between a new traffic signal at Pearl Street and existing Washington Street signals.

720 total parking spaces are required based on the uses and square footage proposed for the site. The 6.5 level parking garage will accommodate 683 spaces, and the applicant is requesting 37 additional on-site valet parking spaces and 100 valet/managed spaces for a total of 820 parking spaces. This parking total represents a 20% increase above required parking as outlined in a Memorandum of Agreement (MOU) between the applicant and the Town, dated May 14, 2014.

Mr. Burgess listed Transportation Demand Management (TDM) strategies to encourage multiple modes of transit to the site. These measures included:

- Transit subsidies
- Electric car charging stations
- Zipcar parking
- Bicycle storage and employee showers/locker rooms
- Carpool parking
- "Guarantee ride home" program for bikers/pedestrians
- Transportation Coordinator

Christopher Hussey questioned where the additional parking will be located. Mr. Burgess described tandem parking at upper floors of the parking garage. A valet service will be hired to oversee this tandem parking. It is the applicant's intent to oversaturate the valet service at first and then reduce as necessary based on actual parking activity. Mr. Burgess also stated that the parking increase is required to provide an operational buffer.

Jonathan Book questioned if there is data or rationale to support this parking increase. Mr. Burgess stated that Urban Land Institute (ULI) data and parking/traffic models suggest that the operational

parking reserve is necessary. Additional parking and valet services come at a cost to the applicant and therefore would not be used by the applicant if they were unneeded.

Mr. Book also requested the vacancy rate of the existing parking garage. Mr. Burgess did not have the vacancy rate number but agreed that the garage is not used to capacity for a variety of reasons.

Ms. Sticklor described proposed mitigation for development and overall public benefit including:

- 1% of construction hard costs to be used for pedestrian bridge demolition over Route 9 and overall Gateway East project funding
- Construction of a signalized intersection at Pearl Street and Brookline Avenue
- \$335,000 toward Pearl Street reconstruction
- Permanent pedestrian easement through the site
- Town use of open space for events
- Agreement to pay real estate taxes regardless of ownership (99 years)
- Municipal tax revenue increase
- Improved pedestrian connection throughout the site
- Economic impact of increased daytime population (buying power)

Ms. Sticklor reiterated that new construction at the site will be energy efficient (leed certified) and meets the conditions for special permit relief as outlined in Bylaw Section 9.05.

Mr. Hussey requested clarification regarding managed parking language included in the MOA, specifically 15% and 20% parking increases. Ms. Sticklor stated that the agreement includes language that established a baseline of 15%. Ms. Sticklor stated that the applicant was not prepared to accept special permit relief if this baseline 15% is not included. A definitive answer on provided parking is required in order to attract necessary tenants and project financing.

Mr. Geller questioned if prior special permit relief for the project had lapsed. Ms. Sticklor responded by stating that she believed that the prior ZBA decision was still valid due to the permit extension act.

Mr. Hussey stated that the loading bays for the 2 Brookline Place building is "tight" and clarified that a loading operations management plan is required as a condition if special permit relief is requested.

Mr. Hussey and Mr. Geller requested additional detail concerning the building height at 2 Brookline place, specifically a mechanical penthouse and rooftop equipment. Ms. Sticklor stated that special permit relief for building height is specifically for garage elevator penthouses. The 2 Brookline Place structure complies with building height requirements (125 feet) outlined in Bylaw Section 5.31.1. Pipes, chimneys, etc. are exempt from these height requirements provided that they do not exceed a height required to perform the intended purpose as approved by the Building Commissioner.

Mr. Geller requested that Jaklyn Centracchio (Town Traffic Peer Reviewer – Beta Consulting) discuss the applicant's parking and traffic analysis. Ms. Centracchio stated that Beta specifically reviewed traffic increase projections and mode split data. Mr. Geller asked if most impacted intersections and peak traffic periods identified by the applicant are accurate. Ms. Centracchio confirmed that these projections were accurate. Mr. Geller questioned if the applicant had been

responsive to town requests for traffic data and findings. Ms. Centracchio again confirmed and stated that the applicant's trip generation information is the only outstanding information.

Mr. Geller called for comment from Kara Brewton (Brookline Economic Development Director). Ms. Brewton stated that the MOA and prior public discussions confirm that the applicant has established the 15% baseline for additional parking with the ability to request additional managed parking as needed.

Ms. Sticklor confirmed that the applicant intended to request relief for a 20% increase above required parking from the ZBA, but is willing to accept the 15% (102 spaces) to avoid dispute.

Mr. Geller called for public comment in favor of the applicant's proposal.

Paul Saner, Co-Chair of the Brookline Economic Development Advisory Board (462 Chestnut Hill Avenue) commended the applicant for relocating 900 jobs to Brookline Village and contributing approximately \$2 million in new tax growth essentially in perpetuity. The applicant has also provided a variety of financial incentives to the town. This is appropriate commercial development for the area and significant public input has occurred throughout the planning process for this site. For these reasons, Mr. Saner urged the Board to grant special permit relief.

Neil Wishinsky, Selectmen (20 Henry Street) agreed that this proposal before the Board of Appeals is a result of positive negotiation between the town, residents and Boston Children's Hospital. Concern regarding parking has been alleviated and the proposal should be supported, in Mr. Wishinsky's opinion.

Edie Brickman supported the 15% additional managed parking, as opposed to 20%, and submitted photos of BCH signage within the Longwood Medical Area. Ms. Brickman suggested building signage that is located near ground levels as a strategy to improve visibility and design while reducing negative visual impact. Ms. Brickman also stated that financial incentives provided by the applicant are beneficial to all involved parties.

Tommy Vitolo, Precinct 6 Town Meeting Member (153 University Road) commended the applicant for supporting cycle tracks and leed certification. Mr. Ritolo also confirmed that 15% of 683 results in an additional 102 managed parking spaces.

Linda Olson Pehlke, Brookline Place Advisory Committee, commented that it is reasonable to request that the applicant demonstrate a clear need for additional parking prior to special permit approval. Ms. Olson Pehlke stated that parking interpretation that is based purely on medical office and retail use is inaccurately high in a manner that favors the applicant's desire for additional parking. Ms. Pehlke also felt that the pedestrian way through the site provides a more acute angle than Town Meeting approved diagrams for the GMR-2.0 district, resulting in reduced visibility. In general, Ms. Pehlke supported the proposal before the Board but she suggested that the applicant work to further reduce vehicular traffic to the site through TDM measures.

Hugh Mattison, Precinct 5 Town Meeting Member (209 Pond Ave.) agreed that this proposal is an improvement from prior plans for the site. Mr. Mattision stated that 80 existing parking spaces located on Pearl Street should be included in parking analysis, and agreed that the need for additional managed parking should be proven and implemented following normal garage operations in order to avoid undue traffic increase in an already overburdened area.

Andrew Fisher, Town Meeting Member (21 Bartlett Crescent) was pleased with the proposal as it promotes major economic development in close proximity to public transit, i.e. Transit Oriented Development (TOD), however it is strange to see such a high dependency placed on parking by the applicant. The ability to establish additional managed parking should be conditioned based on need, in Mr. Fisher's opinion.

Richard Simonelli (Brook House) agreed that the overall project stands to benefit Brookline Village but cautioned the Board that signage, lighting, and construction may have negative impact on Brook House condominium values. Appropriate signage and clear construction start dates should be made available to abutting residents in order to provide input and notice to tenants. Mr. Simonelli also expressed concern that mechanical penthouses and rooftop equipment for 2 Brookline Place is creeping above height requirements to the detriment of views from Brook House residential units.

Merelice, Precinct 6 Town Meeting Member (22 White Place) felt "blindsided" by the applicants request for additional parking, proposed building heights, and adjusted lot lines to accommodate greater floor area ratio (FAR). Merelice also expressed concern that no soil cleanup is planned for the site while mature street trees will be damaged and pedestrian connection has been reduced by the angle of the easement.

Mr. Geller called for public comment in opposition to the applicant's proposal.

Sarah Smith (Brookline Village resident) stated that the building area is attractive but concern about shadows and traffic remain. Ms. Smith stated that she lives and works in the area, and this proposal presents added strain on narrow roadways and public transit (T).

Mr. Geller requested additional detail about the applicant's plan for signage, specifically illumination. Mr. Talun reiterated that signs will be back-lit and subtle. No neon lights will be included and Planning Board review/approval is required.

Lara Curtis Hayes, representing the Planning Board, stated that the Board strongly supported the proposal. The area is currently underutilized and this project will certainly benefit Brookline Village and the wider community. The overall design has been improved and the ground floor/open space attracts public activity. This design complements surrounding structures and traffic impacts will be reviewed annually.

Therefore the Planning Board recommended approval of the proposal and the submitted plans entitled "Brookline Place, Brookline, Massachusetts, Special Permit Application Set," prepared by Elkus | Manfredi Architects dated 12/22/2014, subject to the following conditions:

- 1. Uses in the One Brookline Place addition and the 2 Brookline Place building shall be medical office, general office, ground floor retail and accessory uses. The proportions of medical office and general office in the buildings may be determined by the applicant from time to time but may be all medical office, if so dictated by the needs of the applicant and tenants, however, the ground floor of the Two Brookline Place building shall be retail along with common area, and, at the election of the applicant, the ground floor of the One Brookline Place addition may also be retail along with common area, medical office and general office. Accordingly, the Transportation Demand Management plan has been based on use of the buildings for all medical office use with ground floor retail in the 2 Brookline Place building.
- 2. The parking garage shall have not more than 683 striped parking spaces, excluding drop-off

and loading zones, and shall be available to meet the parking requirements of all buildings within the GMR-2.0 District. The applicant shall be allowed to park up to 137 additional vehicles within the garage, which may be in tandem parking arrangement and/or any other parking arrangement, operation or devices that enable additional vehicles to be accommodated within parking garages. The applicant shall submit a list of Managed Parking Operational Provisions to the Director of Engineering/Transportation for review and approval prior to commencement of any tandem parking arrangement and/or any other parking arrangement, operation or devices that enable additional vehicles to be accommodated within parking garages.

- 3. Prior to the issuance of a demolition permit for any building on the site, the applicant shall obtain from the Preservation Commission all applicable certificates of non-significance for structures to be removed or partially demolished.
- 4. Prior to the issuance of a demolition permit for any building on the site, a final <u>construction</u> management plan, including interim parking conditions for existing One Brookline Place, identification of any specimen trees that will be dug and relocated offsite with the permission of the Tree Warden, parking locations for construction vehicles, hours of construction and materials delivery, noise mitigation, staging areas, security fencing, pedestrian pathways, location of portable toilets, rodent control, erosion and sediment control, protocols to insure protection of persons in the vicinity of the construction work, including air quality monitoring during activities involving disturbance of contaminated soils or management of any contaminated media, emergency contact information, and the name and contact information for a project liaison provided by the applicant, shall be submitted for review and approval by the Director of Engineering/Transportation, after input from the Building Commissioner, Health Director and Conservation Agent/Tree Warden. The construction management plan shall also include the manner of treatment of trees to be preserved or to be removed within the public way abutting the site. A copy of the approved plan shall be submitted in paper and electronic form to the Planning and Community Development Department such that it can be posted on the Planning and Community Development Department's website.
- 5. Prior to issuance of a demolition permit for any building on site, the applicant shall submit to the Director of Public Health for review and approval details regarding the plans for environmental remediation of the site, as well as long-term environmental monitoring of the site post remediation and construction of the buildings. Any changes to these plans shall be submitted to the Director of Public Health prior to implementation.
- 6. Prior to issuance of a demolition permit for any building on site, the applicant shall submit to the Fire Department for review and approval a Safety Plan, detailing how the sprinkler, standpipe, and fire alarm systems will be maintained during demolition, as well as ensuring adequate emergency access during demolition.
- 7. Prior to issuance of a building permit for any of the 2 Brookline Place building, 1 Brookline Place addition, or parking garage, as applicable, the applicant shall submit to the Fire Department for review and approval a Safety Plan for the new building to be constructed, including details regarding the emergency access and life safety systems on site, and evidence of adequate water pressure for fire suppression systems in all new construction.

- 8. Prior to the issuance of a building permit for any of the 2 Brookline Place building, 1 Brookline Place addition, or parking garage, as applicable, <u>final elevations</u> indicating façade design, colors, materials, windows, rooftop details, penthouse configuration and screening, signage, and placement of all mechanical, electrical and plumbing systems and components of the applicable buildings or the garage shall be submitted for review and approval of the Planning Board. An on-site mock-up shall be submitted for the review and approval of the Planning Board after the building permit is issued but before the materials are ordered.
- 9. Prior to the issuance of a building permit for either the 2 Brookline Place building or the 1 Brookline Place addition, final <u>site and landscaping plans for the entire site</u>, including plant types and sizes; a full existing and proposed tree inventory; planting depth details for proposed plants and trees on both private and public property, and information about the planting strategy relative to any capping of the subsurface; fencing; exterior lighting; location of utilities and bicycle parking facilities; hardscape materials and outdoor furniture for the entire site shall be submitted for the review and approval of the Planning Board and the Town's Tree Warden. This landscaping plan shall include landscaping for the public property located between the site's Washington Street and Brookline Avenue property lines and the back of the sidewalks on the same streets, and the applicant shall be responsible for installing and maintaining this landscaping at the same level as the rest of the site's landscaping, provided that the Town issues a license satisfactory to the applicant for such installation and maintenance on public property.
- 10. Prior to the issuance of a building permit for any of the 2 Brookline Place building, 1 Brookline Place addition, or garage, a bond of 150% of the estimated construction cost for the construction and landscaping of the approved pedestrian walkway and open-space improvements shall be submitted to the Building Department. The Building Commissioner and/or the Director of Planning and Community Development shall notify the applicant in writing if they reasonably determine that the project is only partially completed, without all approved buildings and/or additions constructed, and that construction by the applicant will not continue. If within thirty (30) days of receiving such notice the applicant fails to agree to diligently undertake such actions required to complete the work remaining on construction and landscaping of the approved pedestrian walkway and open-space improvements, the Town may redeem the bond to undertake completion of the approved pedestrian walkway and open-space improvements. The Town shall return to the applicant any amounts redeemed in excess of the actual costs incurred to construct and landscape the approved pedestrian walkway and open-space improvements.
- 11. Prior to the issuance of a building permit for any of the 2 Brookline Place building, 1 Brookline Place addition, or parking garage, <u>a drainage plan</u> shall be submitted for review and approval of the Director of Traffic/Engineering and the Conservation Agent.
- 12. Prior to the issuance of a building permit for any of the 2 Brookline Place building, 1 Brookline Place addition, or parking garage, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor, including fencing, grading, and location of utilities; 2) final building elevations including exterior signage generally as indicated on the application plans, stamped and signed by a registered architect; 3) final floor plans, stamped and signed by a registered architect; 4) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

- 13. Prior to the issuance of a building permit for either the 2 Brookline Place building or 1 Brookline Place addition, the applicant shall provide evidence reasonably satisfactory to the Building Commissioner and Director of Planning and Community Development that the applicable building is a LEED certifiable Silver Building or higher rating via the provision of a LEED scoring sheet. Prior to the issuance of the final Certificate of Occupancy for the 2 Brookline Place building or the 1 Brookline Place addition, as applicable, the applicant shall provide a final LEED Checklist and an Affidavit of Construction Compliance prepared by a LEED Accredited Professional and/or project architect.
- 14. The Applicant will not commence demolition of the existing structure at 2 Brookline Place until a building permit for the garage has been issued with evidence reasonably satisfactory to the Director of Planning and Community Development and Town Counsel, provided on a confidential basis, that financing is or will be in place for construction of the 1 Brookline Place addition and 2 Brookline Place building, exclusive of tenant fit-up, and the garage.
- 15. At the completion of the perimeter foundation walls for any of the 2 Brookline Place building, the 1 Brookline Place addition, or the garage, as applicable, and prior to the issuance of a building permit for the above-ground portion of the building, an as-built foundation plan certified by a registered professional engineer or surveyor to be in accordance with the approved site plan shall be submitted for review and approval by the Building Commissioner. If the as-built foundation is found to be non-compliant with the approved site plan, the Building Commissioner may stop above-grade construction activities until such time the foundation is brought into compliance with the approved site plan.
- 16. Up to three temporary construction and/or development sign(s), each no greater than 50 square feet, may be erected on site during the construction and initial leasing period, with the design subject to the review and approval of the Director of Planning and Community Development (or his/her designee), who shall also have the authority to determine that the initial leasing period has ended when 80 percent of each of the 2 Brookline Place building and the 1 Brookline Place addition is occupied.
- 17. Prior to issuance of a building permit for any <u>signage</u> for the 2 Brookline Place building, the 1 Brookline Place addition or garage, other than the signage referenced in condition #16 above, final design plans, including size, location and other details, for the sign(s) shall be submitted to the Planning Board for review and approval.
- 18. A minimum of 25% of parking spaces in the garage shall be offered to residents for overnight parking at market-competitive rates. These spaces shall be available at a minimum from 8 p.m. to 7:30 a.m. weekdays and all day Saturdays and Sundays. If the Applicant chooses to provide more parking spaces for overnight use, these minimum hours of availability shall not apply to these additional spaces. Additionally, if the applicant wishes to provide parking on weekends and holidays and during weekdays after 6 p.m. and before 1 a.m. for users of area businesses, such as restaurants, this shall be allowed.

- 19. No <u>satellite parking</u> shall be allowed, except as indicated in condition #18 above. Satellite parking is defined as parking used by persons working a majority of their time at another location(s), who are not visiting the building. Toward that end, the Applicant shall employ techniques including preferential parking rates for tenants and visitors, and higher parking rates for non-tenants over a specified number of hours per day.
- 20. No less than thirty (30) days prior to the anticipated date of issuance of the building permit for either the 1 Brookline Place addition or 2 Brookline Place building, whichever first occurs, a Transportation Demand Management (TDM) plan shall be submitted to the Town for review and approval by the Director of Engineering/Transportation and the Director of Planning and Community Development (or his/her designee). In connection with preparation of the TDM plan, the applicant shall provide information describing its existing policies relating to employee transportation then in effect, and the mode use resulting from such existing policies. Any tenant in the development that has executed a lease for occupancy at the 1 Brookline Place addition or 2 Brookline Place building shall be requested to provide such information as to its existing policies relating to employee transportation then in effect in other locations operated by such tenants, and the mode use resulting from such existing policies in such other locations. The TDM shall include, but is not limited to, the following provisions:
  - a. Include a garage lay-out plan showing no more than 683 striped parking spaces available for use and companion table showing locations, numbers, and users of different types of parking spaces, including, but not limited to: compact, full car, handicap, drop-off, van, electric car, car-sharing services such as Zip-Car and employee, visitor, resident overnight, loading and ambulance spaces.
  - b. Include a requirement for employee vehicle identification parking stickers or tags.
  - c. Outline initial parking rates for employees, visitors, and residential overnight parkers.
  - d. Indicate how and where information will be provided and displayed (including the lobbies) on all public and other transit options to Brookline Place, with an explanation of which services are for employees only, which are open to the public in general, and the percentage of employees using different modes of transit.
  - e. Provide for sale of MBTA transit passes on-site.
  - f. So long as the 1 Brookline Place addition and 2 Brookline Place building are operated by Children's Hospital Boston or any affiliate of Children's Hospital Boston ("Children's"):
  - (i) Provide for Children's employees working within the 2 Brookline Place building or the 1 Brookline Place addition not less than a 50% public transit employee annual subsidy program, or such greater level as is then being provided by Children's to its employees at its core campus within the Longwood Medical and Academic Area;

- (ii) Provide other transit programs, such as MASCO's "Three for Free" (try public transit for three months for free) and a "Guaranteed Ride Home" for Children's employees working within the 2 Brookline Place building or 1 Brookline Place addition;
- (iii) Provide an employee tax benefit program through the Federal Transit Administration allowing employers to receive a tax deduction for providing transit subsidies and allowing employees to use pre-tax income to pay for transit expenses for Children's employees working within the 2 Brookline Place building or 1 Brookline Place addition;
- (iv) Provide shuttle service, at a minimum, to locations in the Longwood Medical Area, and use best reasonable commercial efforts to include access to satellite parking facilities either currently operated by MASCO or to be established by MASCO; and
- (v) Encourage staggered work hours for Children's employees working within the 2 Brookline Place building or 1 Brookline Place addition.
- g. Provide for and maintain not less than 70 bicycle parking spaces, secure, sheltered from the weather, and shower facilities for all employees who may choose to bicycle to work, including bicycle spaces which may be located in the 2 Brookline Place building or 1 Brookline Place addition for use by employees and in the garage for use by employees or visitors. Outdoor bicycle parking will also be provided near the main building entrance for short term visitors.
- 21. No less than thirty (30) days prior to the anticipated date of issuance of the Certificate of Occupancy for either the 1 Brookline Place addition or 2 Brookline Place addition, the Applicant shall designate a <a href="mailto:traffic and parking coordinator">traffic and parking coordinator</a> to work with the Director of Engineering/Transportation and the Director of Planning and Community Development (or his/her designee) to ensure on-going implementation of all TDM-related efforts. The coordinator shall allow access to the garage by the Town for review of the TDM plan implementation, coordinate and publicize all TDM-related efforts to building tenants, and shall coordinate with the Town to mitigate any impacts during construction of the Gateway East plan.
- 22. To ensure compliance with the TDM plan, the following provisions shall apply, which provisions shall also constitute the Transportation Access Plan Agreement required under Section 5.09.3.c.6.c of the Zoning By-Law:
  - a. An <u>Annual Report</u> shall be provided by the Applicant's traffic and parking coordinator, subject to the review and approval of the Director of Engineering/Transportation and the Director of Planning and Community Development (or his/her designee) relative to the implementation and effectiveness of the TDM plan. The Annual Report shall be submitted prior to issuance of an annual permit for the Transportation Access Plan Agreement from the Building Department under Section 5.09.3.c.6.d of the Zoning By-law. The Annual Report, which shall be submitted together with the applicant's request for

the annual permit for the Transportation Access Plan Agreement, shall include the following features: (i) An annual monitoring and reporting program will commence after receipt of the final Certificate of Occupancy for the 1 Brookline Place addition and the 2 Brookline Place building. If the final Certificate of Occupancy is issued between September 1 and February 29, the monitoring will take place during the months of September or October and a report provided to the Town no later than November 30. If the final Certificate of Occupancy is issued between March 1 and August 31, monitoring will take place during the months of April or May and be reported to the Town no later than June 30; and (ii) The monitoring program will be based on traffic counts and employee surveys as to vehicle, transit, pedestrian, and bicycle usage to 2 Brookline Place and 1 Brookline Place, including the addition. The monitoring program will provide detailed information on the travel modes to work and overall transportation characteristics by type of traveler (employee, visitor, etc.). The survey instrument to be used for mode share monitoring will be provided to the Director of Engineering/Transportation and the Director of Planning and Community Development for approval prior to conducting the survey. The employee survey (which may be conducted through electronic means) will be sent out to all employees, with a goal of securing a sixty percent (60%) minimum response rate. A patient/visitor survey shall be conducted during normal business hours, with a goal of securing at least 200 patient/visitor surveys. The requirement for the Annual Report shall be in effect for five years, and thereafter at the discretion of the Director of Transportation/Engineering and the Director of Planning and Community Development (or his/her designee).

- b. The Director of Engineering/Transportation, in consultation with the Director of Planning and Community Development, shall determine whether the employee vehicular mode share is greater than 35 percent. In the event the employee vehicular mode share is greater than 35 percent, the TDM plan shall be modified to incorporate any reasonable requests of the Director of Engineering/Transportation within sixty (60) days after he/she issues his/her determination. Failure to issue such a determination within sixty (60) days of receiving the Annual Report shall be deemed acceptance of the Annual Report and the existing provisions of the TDM plan. If any owner objects to any new request as being unreasonable or not required, such matter may be presented to the Transportation Board for recommendation to the Board of Appeals for determination, and during such process the applicant will not be considered out of compliance with Section 5.09.3.c.6.d of the Zoning By-law. Following the issuance (or deemed issuance) of the foregoing determination, the Building Department shall use its best efforts to issue the annual permit for the Transportation Access Plan Agreement under Section 5.09.3.c.6.d of the Zoning By-law with appropriate due diligence.
- 23. Prior to the issuance of the final Certificates of Occupancy for the 2 Brookline Place building and the 1 Brookline Place building, 1% of the hard costs of constructing 2 Brookline Place, the 1 Brookline Place addition and the garage (exclusive of tenant fit-up), shall be spent by the Applicant, or given to the Town, for making off-site streetscape improvements (such as,

but not limited to, lighting, street furniture and widening sidewalks, subject to the review and approval of the Planning Board or its designee) and undertaking transportation and community benefit mitigation measures. From the payment of 1% of the hard construction costs (exclusive of tenant fit-up), the amount of \$300,000 shall first be devoted to the demolition of the Hearthstone Plaza Bridge at Route 9 (the "**Bridge Demolition**") and the amount of \$750,000 shall first be devoted to the Gateway East Project, and such payments by the applicant shall be credited against the 1% payment requirement, notwithstanding that such payments may have been made prior to the issuance of the Special Permit.

In the event the amount of the 1% of the hard construction costs (exclusive of tenant fit up) exceeds the Bridge Demolition and Gateway East Project Contributions, a plan of any proposed off-site streetscape improvements to be constructed by the Applicant and a description of the proposed transportation mitigation measures shall be submitted for the review and approval of the Director of Transportation/Engineering and the Director of Parks and Open Space or their designees. The applicant's obligation with respect to construction of off-site improvements shall be subject to approval by the various Town boards, commissions and department heads with jurisdiction over such off-site areas. The applicant shall, at the discretion of the Town, complete the improvements to the extent possible or provide the funds to the Town for expenditure by the Town prior to the issuance of such final Certificates of Occupancy, and the balance of funds that are unspent and uncommitted to the completion of these improvements at the time of the issuance of such final Certificates of Occupancy shall be paid to the Town.

- 24. In addition to the requirements of condition #23, the applicant shall provide the following off-site transportation and pedestrian improvements as may be approved by the Director of Engineering/Transportation and/or the Planning Board, each acting in their reasonable discretion:
  - a. At the Town's election, indicated to the applicant not later than one year prior to the date of anticipated issuance of a final Certificate of Occupancy for the later of 1 Brookline Place addition and 2 Brookline Place building:
    - (i.) The Town shall indicate to applicant whether the Town will undertake the "Pearl Street Reconstruction" consisting of improvements to the street lighting system on the south side of Pearl Street, reconstruction and installation of pavement and curbing along Pearl Street and landscaping and pedestrian markings and/or pavers that visually connect the Property to the Brookline Village MBTA. In the event such work will be undertaken by the Town, the applicant shall deposit \$335,000 in escrow to be expended by the Town for the reasonable costs of the Pearl Street Reconstruction. Any excess funds remaining after the completion of the Pearl Street Reconstruction by the Town shall be returned to the applicant.
    - (ii.) If the Town does not undertake the Pearl Street Reconstruction, the Town shall undertake the design of such work and secure the required approvals and licenses therefor; subject to the foregoing, the Applicant shall commence construction of the Pearl Street Reconstruction within sixty (60) days of issuance of the final Certificates of Occupancy for 2 Brookline Place and the

- 1 Brookline Place addition, but shall not be required to expend more than \$335,000 for such design and construction.
- b. Within six (6) months of the issuance of the final Certificates of Occupancy for the 2 Brookline Place building and the 1 Brookline Place addition, installation of an audible traffic signal at Pearl Street and Brookline Avenue.
- 25. Prior to the issuance of the applicable final Certificate of Occupancy for any of the buildings on the site, <u>complete as-built plans</u> for the 2 Brookline Place building, 1 Brookline Place addition, and the garage, as applicable, certified by a registered architect as in compliance with the approved plans, shall be prepared and filed with the Building Commissioner.
- 26. To the extent permitted by law, prior to the issuance of the final Certificates of Occupancy for the 2 Brookline Place building and the 1 Brookline Place addition, the applicant shall implement for the benefit of Brookline residents and in particular residents of the Brookline Housing Authority and Village Way, a "Brookline Residents Permanent Employment Program," a copy of which is attached as **Exhibit A**.
- 27. Prior to the issuance of the final Certificates of Occupancy for 2 Brookline Place and the 1 Brookline Place addition, a loading facility plan shall be submitted to the Director of Engineering/Transportation and the Director of Planning and Community Development setting forth the anticipated schedule of deliveries to the four loading bays provided (3 at 2 Brookline Place and 1 at the existing portion of 1 Brookline Place) based on the proposed uses, hours of operation, delivery service requirements, and allocation of loading facilities across the various uses and buildings. If deemed required by the Director of Engineering/Transportation and the Director of Planning and Community Development, the Applicant may be required to designate a Dock Master to coordinate and schedule deliveries to the buildings.
- 28. The applicant shall make available outdoor areas within the site for periodic use by the Town for approximately 3 or 4 community events annually without payment of a license fee by the Town, but subject to such limitations with regard to frequency, timing and use as the Town and the applicant shall reasonably agree and to reasonable rules and regulations which may be imposed by the applicant. In connection with such use, the applicant shall make available for use by the Town a storage area of approximately 400 square feet for the storage of certain recreational equipment associated with the Town's use of such outdoor areas.
- 29. The applicant shall comply in all material respects with any other conditions of that certain Memorandum of Agreement between affiliates of Children's and the Town, dated May 15, 2014, recorded with the Registry in Book 32771, Page 19.
- 30. In each instance in which the applicant is required to submit information or material (each a "Required Submission") to a board, commission, department or other official or staff member of the Town (each, a "Town Agent") for review and approval, the Town Agent will use its best efforts to review and approve the Required Submission with appropriate due diligence. Failure to review any Required Submission with appropriate

due diligence shall be deemed approval of the Required Submission.

Interim Chief Building Inspector, Michael Yanovitch, reviewed project plans and confirmed that required zoning relief is accurate. Bylaw Section 5.31.1 provides for an additional ten feet above permitted maximum building height for mechanical equipment. Objects such as pipes, chimneys, antennas, etc. are exempt from this height requirement provided that they are located and sized in a manner required to perform the intended function. Mr. Yanovitch also stated that the Building Department recommended the inclusion of continuous geotechnical monitoring during construction within the final construction management plan to be submitted prior to the issuance of a demolition permit. If the Board finds that the conditions for special permit relief have been met, the Building Department intends to work closely with the applicant to ensure compliance with building codes.

Ms. Sticklor suggested that 15% additional parking results in 102.45 parking spaces that are rounded up to 103 spaces according to the Zoning Bylaw. Ms. Sticklor also felt that the applicant had demonstrated a need for this additional parking through traffic and parking analysis that was completed in good faith and supported by town peer review consultants. The angle of the pedestrian pathway was approved by the Planning Board and the Design Advisory Team. Diagrams included in the Zoning Bylaw regarding this angle are illustrative in Ms. Sticklor's opinion. The current parking garage is underutilized as a result of poor condition and design rather than an overall lack of need for garage parking in the area – currently and following proposed development. Ms. Sticklor confirmed that Planning Board approval is required for all signage at the site and shadow studies are available to the public.

Ms. Sticklor concluded her comments by requesting additional information regarding "continuous geotechnical monitoring" during construction. Mr. Yanovitch explained that standard practice calls for geotechnical reading equipment at the site that is monitored elsewhere and retroactively if concern does arise during construction.

### **Board Deliberation**

Mr. Hussey stated that he was impressed with the cooperative efforts to improve the overall project from previous plans and commended the applicant for providing various schemes during the design review process. Mr. Hussey believed that stated condition #2 satisfies much of the voiced concern regarding additional valet/tandem parking as the applicant must submit managed parking operations to the Brookline Director of Engineering and Transportation as a condition for special permit relief.

Mr. Hussey agreed that the applicant should consider moving signage to the lower levels to improve visibility for vehicles and pedestrians. Mr. Hussey did agree that the proposed pedestrian easement angle is consistent with Zoning Bylaw diagrams.

Mr. Book stated general favor for the project design and referenced positive economic impact. Mr. Book also was not concerned by the angle of the pedestrian easement, but did question how to most appropriately manage additional tandem parking. Mr. Book recognized that additional tandem parking that is contingent upon future tenants does impact the applicant's ability to finance and market the property, but residents are valid in their hesitation to approve unnecessary parking in a transit rich area. Additionally, the applicant has only provided anecdotal evidence regarding the functionality of the existing parking garage.

Mr. Geller agreed that the overall proposal is strong. The 45-foot wide pedestrian way is critical in terms of visual impact and accessibility, and this proposal is consistent with Bylaw diagrams adopted in the spring of 2014.

Mr. Geller was satisfied by Ms. Centracchio's confirmation of the accuracy of the applicant's traffic projections. Additionally, area traffic improvement resulting from stated mitigation measures should not be fully overshadowed by two primary traffic impact intersections. The applicant provided a robust TDM program but realistically requires appropriate parking for a predominately medical office facility. Mr. Geller stated favor for the 15% managed parking to provide as-needed additional parking capacity.

Mr. Geller confirmed that the discussed pedestrian pathway and overall economic impact are provided as counterbalancing amenities for relief from dimensional requirements in accordance with Bylaw Section 5.43. Mr. Geller also confirmed that the conditions for special permit relief under Bylaw Section 9.05 have also been met. Board Members Book and Hussey concurred.

Mr. Geller concluded his comments by stating that the community is actively seeking projects of this type to provide positive economic impact.

The Board recommended the following revisions to stated special permit conditions for the record:

- 3. The parking garage shall have not more than 683 striped parking spaces, excluding drop-off and loading zones, and shall be available to meet the parking requirements of all buildings within the GMR-2.0 District. The applicant shall be allowed to park up to 102 additional vehicles within the garage, which may be in tandem parking arrangement and/or any other parking arrangement, operation or devices that enable additional vehicles to be accommodated within parking garages. The applicant shall submit a list of Managed Parking Operational Provisions to the Director of Engineering/Transportation for review and approval prior to commencement of any tandem parking arrangement and/or any other parking arrangement, operation or devices that enable additional vehicles to be accommodated within the parking garage.
- 4. Prior to the issuance of a demolition permit for any building on the site, a final construction management plan, including interim parking conditions for existing One Brookline Place, identification of any specimen trees that will be dug and relocated offsite with the permission of the Tree Warden, parking locations for construction vehicles, hours of construction and materials delivery, noise mitigation, staging areas, security fencing, pedestrian pathways, location of portable toilets, rodent control, erosion and sediment control, protocols to insure protection of persons in the vicinity of the construction work, including air quality monitoring during activities involving disturbance of contaminated soils or management of any contaminated media, continuous geotechnical monitoring during construction, emergency contact information, and the name and contact information for a project liaison provided by the applicant, shall be submitted for review and approval by the Director of Engineering/Transportation, after input from the Building Commissioner, Health Director and Conservation Agent/Tree Warden. The construction management plan shall also include the manner of treatment of trees to be preserved or to be removed within the public way abutting the site. A copy of the approved plan shall be submitted in paper and electronic form to the Planning and Community Development Department such that it can be posted on the Planning and Community Development Department's website.

- 7. Prior to issuance of a building permit <u>for each</u> of the 2 Brookline Place building, 1 Brookline Place addition, or parking garage, as applicable, the applicant shall submit to the Fire Department for review and approval a Safety Plan for the new building to be constructed, including details regarding the emergency access and life safety systems on site, and evidence of adequate water pressure for fire suppression systems in all new construction.
- 13. Prior to the issuance of a building permit for either the 2 Brookline Place building or 1 Brookline Place addition, the applicant shall provide evidence reasonably satisfactory to the Building Commissioner and Director of Planning and Community Development that the applicable building is a LEED certifiable Silver Building or higher rating via the provision of a LEED scoring sheet. Prior to the issuance of the final Certificate of Occupancy for both the 2 Brookline Place building or the 1 Brookline Place addition, as applicable, the applicant shall provide a final LEED Checklist and an Affidavit of Construction Compliance prepared by a LEED Accredited Professional and/or project architect.
- 21. No less than thirty (30) days prior to the anticipated date of issuance of the Certificate of Occupancy for whichever is earlier, the 1 Brookline Place addition or 2 Brookline Place addition, the Applicant shall designate a traffic and parking coordinator to work with the Director of Engineering/Transportation and the Director of Planning and Community Development (or his/her designee) to ensure on-going implementation of all TDM-related efforts. The coordinator shall allow access to the garage by the Town for review of the TDM plan implementation, coordinate and publicize all TDM-related efforts to building tenants, and shall coordinate with the Town to mitigate any impacts during construction of the Gateway East plan.
- 22. To ensure compliance with the TDM plan, the following provisions shall apply, which provisions shall also constitute the Transportation Access Plan Agreement required under Section 5.09.3.c.6.c of the Zoning By-Law:
  - An Annual Report shall be provided by the Applicant's traffic and parking coordinator, subject to the review and approval of the Director of Engineering/Transportation and the Director of Planning and Community Development (or his/her designee) relative to the implementation and effectiveness of the TDM plan. The Annual Report shall be submitted prior to issuance of an annual permit for the Transportation Access Plan Agreement from the Building Department under Section 5.09.3.c.6.d of the Zoning By-law. The Annual Report, which shall be submitted together with the applicant's request for the annual permit for the Transportation Access Plan Agreement, shall include the following features: (i) An annual monitoring and reporting program will commence after receipt of the final Certificate of Occupancy for the 1 Brookline Place addition and the 2 Brookline Place building, whichever is the first to occur. If the final Certificate of Occupancy is issued between September 1 and February 29, the monitoring will take place during the months of September or October and a report provided to the Town no later than November 30. If the final Certificate of Occupancy is issued between March 1 and August 31, monitoring will take place during the months of April or May and be reported to the Town no later than June 30; and (ii) The monitoring program will be based on traffic counts and employee surveys as to vehicle, transit, pedestrian, and bicycle usage to 2 Brookline Place and 1 Brookline Place, including the addition. The monitoring program will provide detailed information on the travel modes to work

and overall transportation characteristics by type of traveler (employee, visitor, etc.). The survey instrument to be used for mode share monitoring will be provided to the Director of Engineering/Transportation and the Director of Planning and Community Development for approval prior to conducting the survey. The employee survey (which may be conducted through electronic means) will be sent out to all employees, with a goal of securing a sixty percent (60%) minimum response rate. A patient/visitor survey shall be conducted during normal business hours, with a goal of securing at least 200 patient/visitor surveys. The requirement for the Annual Report shall be in effect for five years, and thereafter at the discretion of the Director of Transportation/Engineering and the Director of Planning and Community Development (or his/her designee).

23. Prior to the issuance of the final Certificates of Occupancy for the 2 Brookline Place building and the 1 Brookline Place <u>addition</u>, 1% of the hard costs of constructing 2 Brookline Place, the 1 Brookline Place addition and the garage (exclusive of tenant fit-up), shall be spent by the Applicant, or given to the Town, for making off-site streetscape improvements (such as, but not limited to, lighting, street furniture and widening sidewalks, subject to the review and approval of the Planning Board or its designee) and undertaking transportation and community benefit mitigation measures. From the payment of 1% of the hard construction costs (exclusive of tenant fit-up), the amount of \$300,000 shall first be devoted to the demolition of the Hearthstone Plaza Bridge at Route 9 (the "Bridge Demolition") and the amount of \$750,000 shall first be devoted to the Gateway East Project, and such payments by the applicant shall be credited against the 1% payment requirement, notwithstanding that such payments may have been made prior to the issuance of the Special Permit.

In the event the amount of the 1% of the hard construction costs (exclusive of tenant fit up) exceeds the Bridge Demolition and Gateway East Project Contributions, a plan of any proposed off-site streetscape improvements to be constructed by the Applicant and a description of the proposed transportation mitigation measures shall be submitted for the review and approval of the Director of Transportation/Engineering and the Director of Parks and Open Space or their designees. The applicant's obligation with respect to construction of off-site improvements shall be subject to approval by the various Town boards, commissions and department heads with jurisdiction over such off-site areas. The applicant shall, at the discretion of the Town, complete the improvements to the extent possible or provide the funds to the Town for expenditure by the Town prior to the issuance of such final Certificates of Occupancy, and the balance of funds that are unspent and uncommitted to the completion of these improvements at the time of the issuance of such final Certificates of Occupancy shall be paid to the Town.

- 24. In addition to the requirements of condition #23, the applicant shall provide the following off-site transportation and pedestrian improvements as may be approved by the Director of Engineering/Transportation and/or the Planning Board, each acting in their reasonable discretion:
  - a. At the Town's election, indicated to the applicant not later than one year prior to the date of anticipated issuance of the final Certificate of Occupancy for the latter of 1 Brookline Place addition and 2 Brookline Place building:
- 27. Prior to the issuance of the final Certificate of Occupancy for 2 Brookline Place, a loading facility plan shall be submitted to the Director of Engineering/Transportation

and the Director of Planning and Community Development setting forth the anticipated schedule of deliveries to the four loading bays provided (3 at 2 Brookline Place and 1 at the existing portion of 1 Brookline Place) based on the proposed uses, hours of operation, delivery service requirements, and allocation of loading facilities across the various uses and buildings. If deemed required by the Director of Engineering/Transportation and the Director of Planning and Community Development, the Applicant may be required to designate a Dock Master to coordinate and schedule deliveries to the buildings.

The Board also agreed to strike condition #30 from the record.

Unanimous grant of requested relief, subject to revised conditions.

Hearing closed.